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SC Court of Appeals

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND	)	
	)	2011-CP-40-0232
PATRICIA A. FRIERSON,	)	
	)	**ORDER**
Plaintiff,	)	
	)	
vs.	)	
	)	
KIMBERLY S. CLARK	)	
	)	
Defendant.	)	
	)	
	)	

RICHLAND COUNTY
FILED
2012 AUG 22 PM 12: 19
JEANETTE W. McBRIDE
C.C.P. & G.S.

This matter came before the Court on August 7, 2012, based upon the Defendant's Motion for Summary Judgment. Both the Defendant Kimberly S. Clark and her Attorney Stephen L. Hudson, and Plaintiff Patricia A. Frierson appeared at the hearing. This litigation involves Plaintiff's attempt to retrieve household and personal property that she stored with the Defendant in 2009.

The Plaintiff filed this action in the Court of Common Pleas on January 14, 2011; however she previously filed an action in Magistrate Court on or about September 17, 2009.

FACTS AND PROCEDURAL HISTORY

The Plaintiff stored household and personal property with the Defendant in 2009. The Plaintiff filed an action with the Dutch Fork Magistrate's Office seeking to retrieve her property from the Defendant. The magistrate ordered the parties to exchange the property on November 14, 2009. The Defendant appeared at the time and place designated by the magistrate, but the Plaintiff did not appear. Subsequently, the Defendant made the magistrate aware of the

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Plaintiff's failure to appear and retrieve her property. Thereafter the magistrate dismissed the Plaintiff's case. The Plaintiff failed to appeal the magistrate's dismissal of her complaint.

The Defendant filed this Motion asserting that this matter is precluded by res judicata. The Plaintiff in the present action previously filed a complaint against this Defendant in Magistrate Court that was dismissed November 17, 2009. The previous Complaint addressed the same issues raised in the present action.

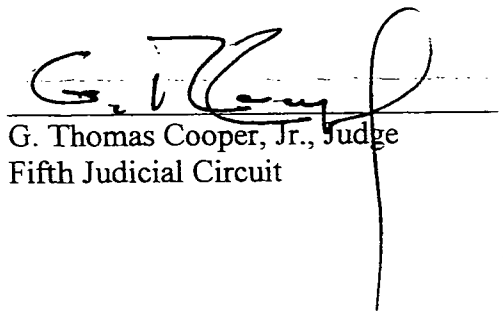
The Defendant has met her burden to establish the elements required to prevail on a res judicata claim. The parties to the present action are the same parties in the magistrate matter signed September 17, 2009. The subject matter is the same as that raised in the September 17, 2009 action, in that the Plaintiff alleges the Defendant had property that belongs to the Plaintiff. Finally the previous matter had been fully adjudicated; in that the magistrate initially ruled for the Plaintiff but when she failed to comply with the Court's instructions, the matter was dismissed. *Riedman Corp. v. Greenville Steel Structures, Inc.* 419 S.E.2d 217, 308 S.C. 467.

CONCLUSION

The doctrine of res judicata bars this subsequent action in that it involves the same parties, concerns the same issues and there was an adjudication of the matter. Further, since the claim arises out of the same transaction or occurrence that was the subject of the prior action between the parties, such claims are also barred by the doctrine of res judicata. *Id.*

The Defendant's Motion for Summary Judgment is granted and the Plaintiff's action is hereby dismissed.

IT IS SO ORDERED.



G. Thomas Cooper, Jr., Judge
Fifth Judicial Circuit

Columbia, South Carolina

August 22, 2012